IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNIVERSAL ATLANTIC SYSTEMS, INC., : CIVIL ACTION

Plaintiff,

:

v. : NO. 20-5291

BOSTON MARKET CORPORATION, et al.,

Defendants.

ORDER

AND NOW, this 21st day of Order, 2022, upon consideration of Plaintiff's Motion for Summary Judgment (Doc. No. 36), Defendant's Response and Cross-Motion for Summary Judgment (Doc. No. 37), Plaintiff's Reply in Support of Summary Judgment and Response to Defendant's Cross-Motion (Doc. No. 44), and Defendant's Reply in Support of Its Cross-Motion for Summary Judgment (Doc. No. 46), it is hereby **ORDERED** that Plaintiff's Motion for Summary Judgment is **GRANTED IN PART** and **DENIED IN PART**, and Defendant's Cross-Motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

- 1. Plaintiff's Motion for Summary Judgment as to past due amounts on the oral contracts is **GRANTED IN PART** and Plaintiff is entitled to recover \$220,458 minus the amount billed for fire inspections. Plaintiff's Motion for Summary Judgment as to amounts billed for fire inspections is **DENIED**, as a genuine issue of material fact remains on this issue.
- 2. Plaintiff's Motion for Summary Judgment as to liquidated damages on the oral contracts is **DENIED**, Defendant's Motion for Summary Judgment on the liquidated damages provision is **GRANTED**, and the liquidated damages provision is deemed unenforceable as a matter of law. A genuine issue of material fact remains as to the actual damages Plaintiff may recover for the unexpired portion of the contracts.
- 3. Plaintiff's Motion for Summary Judgment as to the alarm panels is **GRANTED** to the extent that Plaintiff is entitled to recover the value of these panels. A genuine issue of material fact remains as to the precise amount of recoverable damages for the panels.

4. Defendant's Motion for Summary Judgment as to Plaintiff's conversion claim is

GRANTED.

5. Defendant's counterclaim for breach of contract is **DISMISSED** pursuant to Defendant's

request to withdraw that claim.

It is **FURTHER ORDERED** that upon consideration of Defendant's Motion for an Order

Deeming Its Cross-Motion for Summary Judgment to Be Timely Filed (Doc. No. 39) and

Plaintiff's Response (Doc. No. 45), Defendant's Motion is GRANTED and Defendant's Cross-

Motion shall be deemed timely filed.

It is **FURTHER ORDERED** that a trial scheduling conference regarding the remaining

issues for trial shall take place on Wednesday, November 2, 2022 at 11:00 a.m. The conference

shall be held by telephone. Counsel are directed to dial in as follows: (1) Call: 888-684-8852;

(2) Enter access code: 2187450#; (3) Press <#> to enter as a participant.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.